

ESTTA Tracking number: **ESTTA690329**

Filing date: **08/18/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Hobel, Inc.		
Entity	Corporation	Citizenship	California
Address	2905 E. Miraloma, Suite 3 Anaheim, CA 92806 UNITED STATES		
Attorney information	Tawnya Wojciechowski TRW Law Group 19900 MacArthur Boulevard, Suite 1150 Irvine, CA 92612-8433 UNITED STATES tawnya@trwlawgroup.com Phone:9497014747		

### Applicant Information

Application No	86629868	Publication date	08/11/2015
Opposition Filing Date	08/18/2015	Opposition Period Ends	09/10/2015
Applicant	Blake's Lotaburger, LLC 3205 Richmond Dr. NE Albuquerque, NM 87107 UNITED STATES		

### Goods/Services Affected by Opposition

Class 043. First Use: 1953/07/01 First Use In Commerce: 1953/07/01 All goods and services in the class are opposed, namely: Fast-food restaurant services
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### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86661584	Application Date	06/12/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BLAKE'S PLACE		

Design Mark	<b>BLAKE'S PLACE</b>
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Restaurant services featuring barbeque; Restaurant, bar and catering services; Take-out restaurant services

Attachments	86661584#TMSN.png( bytes ) Noitice of Opposition Blake's Place.pdf(12814 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/trw/
Name	Tawnya Wojciechowski
Date	08/18/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 86629868  
Filed on May 14, 2015  
Published in the Official Gazette on August 11, 2015

Hobel, Inc.,

Opposition No.:

Opposer,

v.

Blake's Lotaburger LLC,

Applicant.

**NOTICE OF OPPOSITION**

Box TTAB FEE  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Opposer Hobel, Inc. dba Blake's Place ("Blake's Place"), a California corporation having its principal place of business at 2905 East Miraloma, Suite 3, Anaheim, California 92806 believes that it will be damaged by the issuance of a registration for the mark BLAKE'S & Design ("Applicant's Mark"), as applied for in Application Serial No. 86629868 filed on May 14, 2015 by Applicant Blake's Lotaburger LLC ("Applicant"), a New Mexico limited liability company having its principal place of business at 3205 Richmond Drive NE, Albuquerque, New Mexico.

As grounds for opposition, Blake's Place alleges that:

1. Since its restaurant was launched in 1996, Blake's Place has continuously used the mark BLAKE'S PLACE in interstate commerce in the United States in connection with its goods and services.

2. Blake's Place has filed an application to register the mark BLAKE'S PLACE with the United States Patent and Trademark Office ("USPTO") under serial number 86661584 on June 12, 2015, for "restaurant services featuring barbeque; restaurant bar and catering services; take-out restaurant services" (the "Restaurant Services").

3. A true and correct copy of the BLAKE'S PLACE Application is attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

4. In addition, Blake's Place owns common law rights in the BLAKE'S PLACE mark dating from 1996 for restaurant services.

5. The BLAKE'S PLACE mark is highly distinctive with regard to the Restaurant Services. Moreover, through Blake's Place widespread use of the BLAKE'S PLACE marks, its extensive and continuous media coverage, the high degree of consumer recognition of the BLAKE'S PLACE mark, Blake's Place's large and loyal user base, the BLAKE'S PLACE mark has become well-known and exclusively associated with the Blake's Place business. .

6. On May 14, 2015, Applicant filed an application to register Applicant's Mark on a use-basis (Section 1(a)), for the following goods and services in International Class 43: fast food restaurant services

7. Applicant's Mark was published in the *Official Gazette* on August 11, 2015.

#### FIRST GROUND FOR OPPOSITION: LIKELIHOOD OF CONFUSION

8. Blake's Place incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

9. Blake's Place began using its BLAKE'S PLACE mark at least as early as 1996, well prior to Applicant's filing date of its application to register Applicant's BLAKE'S mark.

10. Applicant's BLAKE'S Mark is similar to the BLAKE'S PLACE in commercial impression.

11. Applicant's goods and services are offered through the same channel of trade as Blake's Place goods and services, and a casual search on the internet for the mark BLAKE'S reveals the existence of both Applicant and Registrant.

12. Applicant's Mark suggests an affiliation or connection between Applicant and Blake's Place, where none exists.

13. Blake's Place is not affiliated or connected with Applicant or its goods and services; nor has Blake's Place endorsed or sponsored Applicant or its goods and services.

14. Blake's Place has no control over the nature and quality of the goods and services offered under Applicant's Mark, and the value of Blake's Place BLAKE'S PLACE mark would be jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's goods or services marketed under Applicant's Mark would negatively reflect upon and injure the reputation that Blake's Place has established for the goods and services it offers in connection with the BLAKE'S PLACE mark.

15. Registration of the mark herein opposed will damage Blake's Place because Applicant's Mark is likely, when used on or in connection with the goods and services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's application for registration of the mark BLAKE'S should be denied.

WHEREFORE, Opposer prays that application Serial No. 86629868 be rejected in International Class 43, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Dated: August 18, 2015

By:

Respectfully submitted,

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Tawnya Wojciechowski, Esq.

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Hobel, Inc.

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